



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

██████████  
Docket No. 3718-25

Ref: Signature Date

████████████████████  
██  
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Dear ██████████

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although you did not file your application in a timely manner, the Board waived the statute of limitation in accordance with the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo). A three-member panel of the Board, sitting in executive session, considered your application on 30 December 2025. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the Kurta Memo, the 3 September 2014 guidance from the Secretary of Defense regarding discharge upgrade requests by Veterans claiming post-traumatic stress disorder (PTSD) (Hagel Memo), and the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo). The Board also considered the advisory opinion (AO) of a qualified mental health professional and your response to the AO.

You enlisted in the Marine Corps with a pre-service history of underage drinking, trespass, shoplifting, and driving without a license, and you began a period of active duty on 15 October 1986. On 4 January 1988, you received nonjudicial punishment (NJP) for violating Article 86 of the Uniform Code of Military Justice (UCMJ) for failure to go at the time prescribed to your appointed place of duty. On 15 July 1988, you were issued administrative counseling advising you that your operator permit was revoked due to poor judgment and irresponsibility in operating a personally owned vehicle after receiving four traffic violations in three weeks. On 29 July 1988, you received your second NJP for violating Article 91, UCMJ, for being disrespectful in language toward a corporal, telling him in a belligerent tone to "go ahead" and write you up. You were administratively counseled that further misconduct could result in administrative separation. In September 1988, you were issued another counseling after purchasing alcohol in excess of the allotted amount. You then absented yourself for a period of over 400 days from 28 February 1989 through 4 April 1990 and, following your return, you were charged with violating Article 86, UCMJ. After consulting legal counsel, you submitted a request for separation for the good of the service in lieu of trial by court-martial. Your request was approved and you were discharged under Other Than Honorable (OTH) conditions on

21 September 1990.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie, Kurta, and Hagel Memos. These included, but were not limited to, your desire to upgrade your discharge and your contentions that you were suffering mental health side effects of prescription Accutane medication, it affected your behavior while on active duty, you take responsibility for your actions, and you have contributed to society since your discharge. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your personal statement, and excerpts from your service medical record.

Because you contend that a mental health condition affected your discharge, the Board also considered the AO. The AO stated in pertinent part:

During military service, the Petitioner was referred for a mental health evaluation, but began UA before he received an evaluation or formal diagnosis. Although it is possible that he may have been experiencing mental health symptoms, it is difficult to attribute his misconduct to a mental health condition. The chronic and extended nature of his UA and other unsatisfactory behavior make it difficult to attribute his misconduct to a mental health concern. It is difficult to attribute potential medication side effects to his misconduct, particularly given pre-service behavior that appears to have continued in service. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "There is insufficient evidence of a diagnosis of a mental health condition that may be attributed to military service. There is insufficient evidence that his in-service misconduct may be attributed to a mental health condition."

In response to the AO, you provided an additional statement in support of your application. After careful review of your rebuttal evidence, the AO remained unchanged.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and discharge for the good of the service, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. Further, the Board also noted that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial; thereby sparing you the stigma of a court-martial conviction and possible punitive discharge. Therefore, after the application of the standards and principles contained in the Wilkie Memo, the Board found that your service fell well below the minimum standards for a General (Under Honorable Conditions) or Honorable characterization of service.

Additionally, the Board concurred with the AO that, although it is possible you may have experienced mental health symptoms, the chronic and extended nature of your unauthorized absence (UA) makes it difficult to attribute to a mental health condition. The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Hagel and Kurta Memos. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion. The Board recognized the same concerns raised in the AO and also observed that you were not continuously prescribed the medication to which you attribute your behavior, and some of your misconduct occurred during periods when you were not taking said medication. Therefore, the Board determined that the evidence of record did not demonstrate that you were not mentally responsible for your conduct or that you should not be held accountable for your actions. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

As a result, the Board determined that there was no impropriety or inequity in your discharge and concluded that your misconduct and disregard for good order and discipline clearly merited your discharge. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta, Hagel, and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity is attached to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely, \_\_\_\_\_  
1/22/2026

